

WATER COUNCIL MEETING

NH Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

October 14, 2015
9:00 a.m.

Members present: Chairman Gilbert, Councilors: Beaurivage, Butler, Clark, Gegas, Hardy, Henderson, Hinds, O'Brien, and Varotsis

Members absent: Councilors Boisvert, Joubert, and Rawnsley

Also present were Paula Scott, Appeals Clerk and Carolyn Guerdet, Council Clerk

Councilor Gilbert called the meeting to order at 9:02 a.m.

1. Approval of Minutes of the September 9, 2015 Meeting

- ***Councilor Varotsis made a motion to accept the minutes of the September 9, 2015, second by Councilor Butler. Motion passed unanimously. Councilor Hardy abstained.***

2. Status of Appeals

Appeals Clerk, Paula Scott, presented an update on the following appeals:

I. New Appeals

Docket No. 15-11 WC – The Three Socios, LLC Appeal

Re: Re: 8/17/15 Well Location Approval DR 140043 issued to George Calef

Hearing Officer: Not assigned

Status: September 8, 2015 received Notice of Appeal. 9/10/15 issued receipt of Appeal letter. 9/17/15 received Appearance of Atty. Gregory Wirth and a Motion to Intervene for the Permittee. 9/22/15 received Appearance of Atty. Allen Brooks for DES. October 1, 2015 received Response to Notice of Appeal. Council to accept or dismiss appeal at their October 14, 2015 meeting.

- ***Councilor Butler made a motion to accept the appeal, second by Councilor Hinds. Discussion was held. Motion passed unanimously.***

Docket No. 15-04 WC – Woodmere Association, Inc. Appeal

Re: 3/3/15 Administrative Order No. 15-005 WD

Hearing Officer: Not assigned

Status: April 2, 2015 received Preliminary Notice of Appeal (PNA). May 18, 2015 received Notice of Appeal. 5/18/15 issued receipt of Appeal letter. Appeal was received 76 days after decision was issued. Council denied the appeal on June 10, 2015. August 11, 2015 issued Decision and Order on Notice of Appeal. September 10, 2015 received Request for Reconsideration. Discussion was held. It was decided the appeal was filed with the improper Council and was not received in a timely manner.

- ***Councilor Varotsis made a motion to decline the Request for Reconsideration, second by Councilor Beaurivage. Motion passed unanimously.***

II. Decision and Orders that need to be written finalized and issued.

III. Hearings or PHCs Pending

Dockets No. 12-01 WC – David Sundman, et al.

Re: 12/19/11 Alteration of Terrain Permit No. AoT-0353 for Dalton Valley Drag

Hearing Officer: David Conley assigned on 2/9/12

Status: Received appeal that appears to be timely on January 18, 2012. Issued receipt of appeal letter on January 20, 2012. Council accepted the appeal Feb. 8, 2012, notice was issued Feb.9, 2012. (See Sept. 2015 minutes for full list of filings.) December 24, 2014 received Assented-to Motion to Stay Pre-hearing Conference and hearing. 12/30/14 issued letter granting Motion and scheduling PHC for 4/16/15 at 8:30 a.m. February 13, 2015 received Appellants' Motion for Summary Judgment and Memorandum in Support of Motion for Summary Judgment. 2/27/15 received DES' Partial Objection to Appellants' Motion for Summary Judgment. March 11, 2015 issued Order Granting Summary Judgment in part. April 10, 2015 received Appearance from Robert Best and Motion for Rehearing. 4/15/15 received Objection to Applicant's Motion for Rehearing. 4/16/15 issued Decision and Order on Motion for Rehearing and issued Notice of Prehearing Conference scheduled for 5/13/15 at 10 a.m. Prehearing Order issued 5/13/15 with hearing scheduled for October 14, 2015 at 10 a.m. 5/15/15 received Request for Waiver of Rules. 5/18/15 issued letter regarding Request for Waiver of Rules. June 3, 2015 received permittee's status update. 6/10/15 issued Notice of Hearing time change per request from the Council. Hearing is now scheduled for October 14, 2015 at 9 a.m. July 2, 2015 received Amended Appearance – Atty. Robert Best and Assented-to motion to Stay All Deadlines. 7/14/15 issued letter granting Assented-to Motion and directing the parties to submit a status report by July 30, 2015. 7/30/15 received Motion for Extension of Stay. 7/31/15 received permittee's status update. August 5, 2015 issued letter with new filing deadlines. September 9, 2015 received Motion to Compel. 9/16/15 received Objection to Motion to Compel. 9/16/15 received Appellants' and State's Witness and Exhibit Lists. 9/17/15 issued order on Motion to Compel. 9/17/15 received Appellant's Assented-To Motion to Compel Responses to Discovery Requests. 9/21/15 received Intervenor's Witness and Exhibit List. 9/24/15 received Request that Assented-To Motion to Compel Responses be taken up at PHC.

Docket No. 14-02 WC – Monadnock Paper Mills, Inc.

Re: 1/13/14 State Water Quality Certificate, WQC #2013-FERC-001, Conditions

Hearing Officer: David Conley, Esq. assigned on 5/19/14

Recused Members: Carol Henderson and Mike Butler

Status: February 28, 2014 received Notice of Appeal. March 11, 2014 issued receipt of appeal letter. May 5, 2014 received Appearance from Atty. Mary Maloney for DES. Council to accept or dismiss appeal. Appeal was accepted at the May 14, 2014 Council meeting. 5/14/14 issued Appeal accepted letter. 5/20/14 issued Notice of Prehearing Conference (PHC). 5/23/14 received Assented to Motion to Continue PHC. 5/29/14 issued letter granting Motion to Continue and rescheduled PHC for Sept. 10th at 8 a.m. August 13, 2014 received Assented to Motion to continue Prehearing conference. 8/14/14 issued letter granting Motion to Continue and rescheduled PHC for Oct. 27, 2014 at 8:30 a.m. 10/20/14 received Assented-to Motion to Continue PHC. 10/21/14 issued letter granting Motion to Continue and rescheduled PHC for January 12, 2015 at 8:30 a.m. 12/31/14 sent notice of rescheduled Prehearing Conference due to scheduling conflict. PHC is scheduled for 1/16/15 at 11 a.m. 1/4/15 received Assented-to Motion to Continue PHC. 1/6/15 issued letter granting Motion and rescheduling PHC for March 16, 2015 at 11 a.m. February 20, 2015 received Assented-To Motion to Continue Prehearing Conference. March 2, 2015 issued letter rescheduling PHC

to June 17, 2015 at 9 a.m. June 11, 2015 received Motion to Continue Pre-hearing Conference. 6/17/15 issued letter granting Motion and rescheduled PHC for September 17, 2015 at 8:30. September 10, 2015 received Assented-To Motion to Continue Pre-hearing Conference. 9/16/15 issued letter granting Motion to Continue and rescheduled PHC for Dec. 10, 2015 at 8:30 a.m.

Docket No. 15-07 WC – Board of Governors of the Black Cat Island Civic Assoc. Appeal

Re: 4/7/15 approval for subdivision #SA2015010642 issued to Goldsmith Children's Trust
Hearing Officer: David Conley, Esq. assigned on 6/16/15

Recused: Councilor O'Brien

Status: May 4, 2015 received Preliminary Notice of Appeal (PNA). 5/19/15 received Notice of Appeal. 5/20/15 issued receipt of appeal letter. Appeal accepted on June 10, 2015. 6/10/15 issued appeal accepted letter. 6/17/15 issued Notice of Pre-hearing Conference scheduled for 7/13/15 at 10:30 a.m. 6/19/15 received Appearance of Atty. Gretchen Hamel for DES. July 10, 2015 received Appearance of Attys. Jason Reimers and Amy Manzelli for the permittee and Owner's Petition to Intervene. 7/13/15 issued Pre-Hearing Order scheduling hearing for December 9, 2015. August 13, 2015 received Joint Motion to Dismiss. 8/17/15 received Assented-to Motion to Extend Objection Deadline. 8/27/15 Received Objection to Joint Motion to Dismiss. September 23, 2015 issued order on Joint Motion to Dismiss. October 9, 2015 received Appearance of Atty. Lauren Noether for the Department. 10/12/15 received Withdrawal of Appearance from Atty. Gretchen Hamel.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

None

3. New Business

Chairman Gilbert referred to a letter received by the Council from Granite State Designers and Installers and asked Director Forbes to explain the reorganization of the Land Resources Management Program. Director Forbes noted this has been in the process for almost 3 years. This was to combine the Subsurface, Wetlands, Alteration of Terrain Bureaus and Shoreland Program to meet the challenges of managing the land resources of the state. 5 public information meetings will be held beginning in November. Staff will now not be in silos, they will be land resources specialists, providing better efficiencies, better environmental results and better customer service. This will also give career development opportunities for staff. It will then go to the Department of Personnel.

Councilor Hinds, representing GSDI, addressed the outreach and involvement of stakeholders. They are concerned with all staff being cross-trained. They feel there is a need to have specialists who know the new technology in the specific areas. This could cause a stalemate on the smaller projects but could be good for the large projects. Some members will be sitting down with DES in an upcoming meeting.

Director Forbes asked for additional comments. Councilor O'Brien noted the engagement of the stakeholder communities is important. Director Forbes noted work on the reorganization has been only done internally according to the timeline and it will then go out for comment. He will keep the Water Council abreast of the future outreach meetings.

Rules:

Steve Roy and Debra Sonderegger, Drinking Water and Ground Water Bureau

Steve reviewed the rules as distributed. He oversees the large and small well community programs. He also oversees the groundwater discharge permitting. These are all associated source approvals in the 300 rules in the drinking water program.

a. Env-Dw 301 Definitions - this is new to combine all definitions in one place but there were not a lot of new definitions in the rules.

b. Env-Dw 302 Large Production Wells for Community Water Systems

Steve reviewed the major changes that are being proposed. There are 3 common changes to all 3 of the rules: 1) requiring electronic submittals of permit applications and permit related data 2) stipulating a minimum set of requirements for construction of public water supply wells 3) adding the ability of the department to require on a case-by-case basis a vulnerability assessment to impacts of natural hazards. This is for new and replacement wells. State of NH does not have a construction permitting requirement for private wells.

c. Env-Dw 305 Small Production Wells for Small Community Water System

These were originally the 301 rules. There have been a number of small systems that have failed. These are condo associations, subdivisions, etc. Most recently there have been replacement situations. They are trying to bring more rigorous pumping tests to these wells.

Both sets of rules must monitor private wells within 1000 ft. of the new well. They do keep the data on the surrounding private wells.

Discussion was held and questions were answered.

The bottled water rules were reviewed at the last meeting.

Public hearing is November 19th for all 3 sets of rules. Written comments due by December 11th. These will probably be adopted in February or March.

4. Old Business**5. Next Meeting**

December 9, 2015 at 8 a.m. with a hearing at 9 a.m.

6. Adjournment

Councilor Varotsis shared a few last words as this was his last meeting after 43 years on the Water Council.

➤ ***Councilor Varotsis made a motion for adjournment, second by Councilor Butler. Motion passed unanimously.***

Meeting adjourned at 10:19 a.m.